

ASSEMBLY BILL

No. 535

Introduced by Assembly Member Morrell

February 16, 2011

An act to add Section 11349.95 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 535, as introduced, Morrell. Regulations: 5-year review and report.

The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies.

This bill would additionally require a state agency to review and report on regulations that it adopts or amends on and after January 1, 2012, 5 years after adoption, as specified. The bill would require that the review and report include 10 specified factors, including a summary of the written criticisms of the regulation received by the agency within the immediately preceding 5 years and the estimated economic, small business, and consumer impact of the regulation. The bill would require the Office of Administrative Law to make the review and report available on the office's Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11349.95 is added to the Government
- 2 Code, to read:

1 11349.95. (a) (1) A state agency shall review and report on
2 all regulations that it adopts or amends on and after January 1,
3 2012, as required by this section. The review and report shall be
4 completed and submitted to the office on or before May 1
5 immediately following five years after the date the regulation was
6 adopted or amended.

7 (2) The office shall make the report required by paragraph (1)
8 available on the office's Internet Web site.

9 (b) The review and report required by this section shall include
10 all of the following factors:

11 (1) The general and specific statutes authorizing the regulation.

12 (2) The objective of the regulation.

13 (3) The effectiveness of the regulation in achieving the objective.

14 (4) The consistency of the regulation with state and federal
15 statutes and regulations and a listing of the statutes or regulations
16 used in determining the consistency.

17 (5) The agency enforcement policy, including whether the
18 regulation is currently being enforced and, if so, whether there are
19 any problems with enforcement.

20 (6) The agency view regarding current wisdom of the regulation.

21 (7) The clarity, conciseness, and understandability of the
22 regulation.

23 (8) A summary of the written criticisms of the regulation
24 received by the agency within the five years immediately preceding
25 the five-year review report, including letters, memoranda, reports,
26 and written allegations made in litigation or administrative
27 proceedings, to which the agency was a party, that the regulation
28 is discriminatory, unfair, unclear, inconsistent with statute, or
29 beyond the authority of the agency to enact, and the result of the
30 litigation or administrative proceedings.

31 (9) The estimated economic, small business, and consumer
32 impact of the regulation as compared to the economic, small
33 business, and consumer impact statement prepared on the last
34 making of the regulation, or, if no economic, small business, and
35 consumer impact statement was prepared on the last making of
36 the rule, an assessment of the actual economic, small business,
37 and consumer impact of the regulation.

38 (10) Course of action the agency proposes to take regarding
39 each regulation, including the month and year in which the agency
40 anticipates submitting the rules to the office if the agency

- 1 determines it is necessary to amend or repeal an existing rule, or
- 2 to make a new rule.

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